

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

2008 AUG 15 A 10:40

JOHN CRAYTON)

Plaintiff,)

v.)

) Case No: 2:07-CV-626

STATE OF ALABAMA)
DEPARTMENT OF AGRICULTURE &)
INDUSTRIES,)

Defendant.)

MOTION FOR EXTENSION OF TIME AND MOTION TO COMPEL

COMES NOW the Plaintiff, by and through his counsel, and respectfully requests this Honorable Court for an Extension of Time of the Discovery deadline and to Compel the Defendant to make Commissioner Ron Sparks available for deposition. In support thereof, the Court is shown the following:

1. That as per the scheduling order in the above case, the deadline to take discovery was August 14, 2008.
2. That the Plaintiff remains in need of the deposition of a key party to this complaint, Commissioner Ron Sparks.
3. That the parties first requested to take the deposition of Mr. Sparks in March of 2008.
4. That on April 17, 2008, per the Defendant's request, the Plaintiff, John Crayton, was made available to be deposed by the Defendant. On this same date, Plaintiff again requested to take the deposition of Mr. Sparks. The

Plaintiff also requested to take the deposition of Ronnie Murphy and Lance Hester.

5. That the Defendant made Lance Hester available on May 6, 2008. The parties agreed that they would take the deposition of Ronnie Murphy at a later date. The Plaintiff also informed the Defendant that he still needed to take the deposition of Mr. Sparks. The Defendant informed the Plaintiff that it would work on setting up a date for Mr. Sparks.
6. That, after a number of requests; a number of months passing and the Plaintiff communicating with the Defendant that the discovery period was closely approaching, on August 7, 2008, the Plaintiff by letter again requested to take the deposition of Mr. Sparks. In said letter the Plaintiff expressed to the Defendant that it was critical to his case that he be allowed to take the deposition of Mr. Sparks.
7. That the Defendant made Ronnie Murphy available on August 12, 2008, but did not make Mr. Sparks available.
8. That on August 13, 2008, the Plaintiff wrote the Defendant another letter again requesting to take the deposition of Mr. Sparks. The Defendant was aware of the impending deadline.
9. That, because of the challenges that the Defendant was having with making Mr. Sparks available, the Plaintiff suggested that if the Defendant could not make Mr. Sparks available before the discovery deadline that the parties file a motion for extension of time to accommodate Mr. Sparks' schedule.

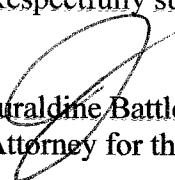
10. That, by letter, the Defendant indicated to the Plaintiff that Mr. Sparks could not be made available by the discovery deadline. The Defendant further indicated that it would not agree to an extension of time.

11. That it is critical that the Plaintiff be allowed to take the deposition of Mr. Sparks.

12. That due to the Defendant's refusal to cooperate with the Plaintiff and the critical need to the Plaintiff's case to take the deposition of Mr. Sparks, the Plaintiff requests that the Defendant be compelled to make Mr. Sparks available and that the discovery period be extended to accommodate the taking of said deposition.

WHEREFORE, the premises considered, the Plaintiff respectfully prays that the Defendant be compelled to make Mr. Ron Sparks available for deposition and he be granted an extension of time to take said deposition.

Respectfully submitted,


Juraldine Battle-Hodge (BAT033)
Attorney for the Plaintiff

OF COUNSEL:

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing document has been served upon the following via electronic filing on the 15th day of August 2008.

Hon. E. Ham Wilson, Jr.
Hon. Emily C. Marks
Ball, Ball, Matthews & Novak, P.A.
P.O. Box 2148
Montgomery, AL 36102-2148



Of Counsel